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SH 2070675

PERSONNEL INVESTIGATIONS FORM

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Request for I.A.B. Investigation
Lennox Station P.M. Shift In-service dated 09-01-02
Audio/Video Tracking Form

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY
IV 2088242

Subject: **JOHN MACDONALD, DEPUTY, #[redacted]**

Date: **September 1, 2002, (Sunday)**

Time: **1747 Hours**

Location: **Imperial Highway at Wilmington Ave., Los Angeles**

This case pertains to an on-duty incident where Deputy John MacDonald, assigned to Century Station as a patrol deputy, allegedly failed to accompany his partner during a foot pursuit, instead remaining on an overpass as his partner chased an armed suspect. Additionally, Deputy MacDonald allegedly used unreasonable force when he fired his duty weapon at the suspect, killing him in the process.

SUSPECT

Brito, Jose Y.

Suspect Brito has an extensive criminal history which includes numerous narcotic violations and false representation to a Peace Officer **(refer Exhibit G, pg #64).**

INJURIES

Suspect Brito received one gunshot wound to his right temporal region from a large caliber projectile and one gunshot wound to his chest and abdomen from a medium caliber projectile which traveled in a downward, front to back path. The large caliber wound was attributed as the immediate cause of death with the medium caliber wound listed as a life threatening wound.

WEAPON USED BY DEPUTY PERSONNEL

Deputy MacDonald, John P. #[redacted]

Department issued Beretta 9MM (ser#BER[redacted]Z) service weapon and ammunition, 7 rounds fired. Examination by Homicide investigators on the night of the incident revealed Deputy MacDonald's weapon had 8 rounds in the magazine and one round in the chamber of the weapon. Firearms examination found the weapon to operating as designed.

WEAPON USED BY SUSPECT

Suspect Brito, Jose Y.

Springfield Armory 1911 A1 45 caliber semiautomatic pistol, containing 1 live round of 45 caliber ammunition in the chamber and 4 live rounds in the magazine. Firearms examination revealed the weapon to be operational.

PHYSICAL EVIDENCE

The suspect's loaded weapon was recovered laying next to the location that he fell after he was shot as was one 45 caliber "PMC" shell casing. A blood trail was located that began south of Imperial Highway and ended under Imperial Highway at the location the suspect fell. Six expended Winchester 9MM shell casings were located on Wilmington Ave. and one expended Winchester 9MM shell casing was located on Imperial Highway in the area Deputy MacDonald indicated he was standing when he fired at the suspect. At the scene of the shooting $22,200.00 was recovered from the suspect's clothing and at the hospital an additional $24,195.00 was recovered from the suspect's pants. This money was later determined to be the result of illegal narcotics trafficking.

COMPLAINANT

WITNESS

Deputy James North, [redacted]

Deputy North was interviewed by Investigators from the Sheriff's Departments Homicide Bureau and the Internal Affairs Bureau on September 1, 2002, the night of the incident. That interview is summarized as follows:

Deputy North said that he was assigned to work unit 213E with his partner Deputy John MacDonald. Deputy MacDonald was the bookman and he was the driver. They were driving south on Wilmington Ave. when they heard the sound of screeching tires in the Kenneth Hahn shopping center located on the northeast corner of 119th St. and Wilmington Ave. He drove into the parking lot of the shopping center and saw a Cadillac Escalade driving erratically, nearly striking pedestrians. He activated the overhead lights on his marked patrol vehicle to initiate a traffic stop of the Escalade. The driver did not stop and exited the parking lot to northbound Wilmington Ave. nearly colliding with northbound traffic.

Deputy North activated the siren as Deputy MacDonald put out a radio broadcast that they were in pursuit of a possible drunk driver, driving recklessly. The driver drove over some orange traffic cones and then drove the wrong direction, up an off ramp for westbound Imperial

Highway traffic , which was closed to traffic as it was still under construction. At the top of the ramp, the vehicle was forced to stop at a concrete barrier, which was set up to stop westbound Imperial Highway traffic from exiting. The suspect exited the vehicle holding a handgun, jumped over a concrete barrier and ran south across Imperial Highway. Deputy North followed the suspect on foot, while Deputy MacDonald maintained visual and radio contact with him and the suspect from the top of the Wilmington Ave. overpass.

Deputy North followed the suspect as he ran south down another ramp, which was also closed for construction, toward the shopping center and the M.T.A. passenger station, where numerous people were waiting for a train or bus. At a point in which the drop from the ramp to Wilmington Ave. was approximately twenty-five feet, the suspect jumped from the ramp to Wilmington Ave. When Deputy North reached the point the suspect had jumped from, he looked down and saw the suspect banging on the door of a large vehicle and attempting to gain entry (car-jacking). The suspect was unsuccessful and ran northbound Wilmington Ave. He yelled commands to the suspect to get on the ground. The suspect simply glanced back and continued running northbound Wilmington Ave.

Deputy North ran further down the ramp in order to safely jump to the ground below. He saw the suspect unsuccessfully attempt to car-jack another vehicle. In that the suspect was approximately eighty yards ahead of him and carrying a handgun in his right hand, Deputy North felt it was better for him to keep the suspect in sight and coordinate a containment. of the suspect. When the suspect neared Imperial Highway, Deputy North saw him look up at Deputy MacDonald, who was standing on Imperial Highway above Wilmington Ave., and raise the handgun in front of him. He heard commands being yelled at the suspect and then heard four to seven gunshots in succession. He ducked for cover and when he looked north toward Imperial Highway, he saw that suspect lying motionless on the ground under the Imperial Highway overpass. Deputy Hilgendorf arrived at the location and assisted in handcuffing the suspect.

Deputy Kevin Hilgendorf #[redacted]

Deputy Hilgendorf was interviewed by investigators from Homicide Bureau and the Internal Affairs Bureau on September 1, 2002, the night of the incident. That interview is summarized as follows:

Deputy Hilgendorf said that he and his partner, Deputy [redacted] were leaving Century Station when they heard an emergency radio broadcast from Deputies North and MacDonald that they were in pursuit of a reckless driver northbound on Wilmington Ave. from the Kenneth Hahn Plaza. As they responded to that location the broadcast was updated to indicate that the suspect was now running by the Transit Services Bureau building. He said they drove through the Transit Services parking lot and parked in the construction area on Willowbrook Ave. just north of Imperial Highway.

Deputy Hilgendorf looked to his left and saw the suspect running/staggering north on Wilmington Ave. When he exited his patrol vehicle, he lost sight of the suspect due to two

concrete support pillars. He then heard one loud gunshot coming from the area that he had last seen the suspect. He approached the area and saw the suspect lying on the ground with a handgun next to him.

Deputy [redacted] #[redacted]

Deputy [redacted] was interviewed by investigators from Homicide Bureau and the Internal Affairs Bureau on September 1, 2002, the night of the incident. That interview is summarized as follows:

Deputy [redacted] said that he and his partner Deputy Hilgendorf were leaving Century Station when they heard an emergency radio broadcast that Deputies North and MacDonald were in pursuit of a reckless driver who may be under the influence of alcohol. He drove north on Willowbrook Ave. through the Transit Services Bureau parking lot and parked north of Imperial Highway.

Deputy [redacted] looked to the west and saw the suspect, approximately fifty yards away, running northbound on Wilmington Ave. at Imperial Highway. He heard what he described as a "cluster" of gunfire, coming from the area he had last seen the suspect. He saw the suspect staggering, then lost sight of the suspect when he went behind a pillar used to support Imperial Highway.

Deputy [redacted] and Deputy MacDonald exited the radio car and approached the area they had last seen the suspect. He saw the suspect lying face down on the street below Imperial Highway, holding a handgun in one of his hands beneath his body.

[redacted] FB/31

[redacted] was interviewed by investigators from Homicide Bureau on September 1, 2002. That interview is summarized as follows:

[redacted] said that she was sitting at the bus stop on Imperial Highway and Wilmington Ave. with her [redacted] Her [redacted] told her a police officer was chasing someone down the ramp of the overpass. She looked and saw someone jump from the ramp. Moments later her [redacted] told her that she heard gunshots. She said she did not hear the gunshots until her [redacted] brought them to her attention. She did not see who had fired the gun.

[redacted] FB/7

[redacted] was interviewed by investigators from Homicide Bureau on September 1, 2002. That interview is summarized as follows:

[redacted] said that she and her [redacted] ([redacted]) were sitting at the bus stop when she saw a man being chased, by a police officer, down the ramp. She saw the man jump off the

ramp, but lost sight of the police officer. Moments later she heard gunshots; however she did not see who had shot.

SUBJECT

Deputy John MacDonald #[redacted]

Deputy MacDonald was interviewed by Investigators from the Sheriff's Departments Homicide Bureau on September 1, 2002, the night of the incident. That interview is summarized as follows:

Deputy MacDonald said that he was assigned to work unit 213E with his partner Deputy James North. Deputy North was the driver and he was the bookman. They were driving south on Wilmington Ave. when they heard the sound of screeching tires in the Kenneth Hahn shopping center located on the northeast corner of 119th St. and Wilmington Ave. Deputy North drove into the parking lot of the shopping center and saw a Cadillac Escalade driving erratically, nearly striking pedestrians. He saw through the open windows that the driver was the sole occupant of the vehicle. Deputy North activated the overhead lights on his marked patrol vehicle to initiate a traffic stop of the Escalade. The driver slowed, but did not stop, and exited the parking lot to northbound Wilmington Ave. nearly colliding with northbound traffic. The suspect drove through a red light and began swerving in and out of traffic. At this time, he began broadcasting over Sheriff's radio that they were in pursuit of a possible drunk driver.

The suspect made a left turn through orange traffic cones and proceeded up a closed off-ramp for west bound Imperial Highway traffic. At the top of the ramp the suspect had to stop due to a concrete barrier (K-Rail) having been placed to prevent west bound traffic from exiting Imperial Highway. Deputy North stopped their vehicle several feet behind the suspect vehicle. The suspect quickly exited his vehicle and ran around the front of his vehicle. Deputy MacDonald saw that the suspect was carrying a handgun in his right hand. The suspect ran south across Imperial Highway, which was closed to traffic, jumped a concrete barrier and ran south down the closed east bound on-ramp for Imperial Highway from Wilmington Ave. Deputy North gave chase. Deputy MacDonald said he had to exit the radio car slowly while he ensured that he was on the proper radio channel, due to the fact that he keeps the radio car radio on the dispatch channel and his hand held radio on L-Tac. He switched his hand held radio to the dispatch channel and began to provide updated information to assisting units. He also began to set up a containment of the location. This action caused the suspect and Deputy North to "get a jump on" him. In that Deputy North and the suspect were so far ahead of him, he ran to the south side of Imperial Highway and stopped at the railing in order to keep visual contact with the suspect and Deputy North. He said he maintained visual contact with Deputy North and noted that he was trailing the suspect at a safe distance and advised responding units that the suspect had a gun.

> **I.A.B. Note:** Deputy MacDonald said that during the entire incident, he maintained visual and radio contact with his partner, Deputy James North. He said that he had moved slowly so that he could properly provide updated, accurate

information on the correct radio channel and to coordinate responding units in setting up a containment of the scene

The suspect ran down the on-ramp and jumped over the concrete barrier landing on Wilmington Ave. with the handgun still in his right hand. As he watched the suspect from a distance of approximately 35 to 40 feet above, he saw the suspect attempt to car-jack a white vehicle by pounding on the windows and pointing the handgun at the occupant. This vehicle sped away north bound Wilmington Ave. He next saw the suspect attempt to car-jack a brown vehicle which had a woman and a young girl as occupants. This vehicle also sped away north bound Wilmington Ave.

The suspect continued running north on Wilmington Ave. toward him. As the suspect ran toward him, he yelled to the suspect to, "Drop your gun, get your hands up." When the suspect was approximately 30 to 40 feet from him, the suspect raised his handgun and pointed it at him (Deputy MacDonald). In fear for his life, he fired three or four rounds at the suspect, reassessed the situation and saw that the suspect was still on his feet and pointing his gun at him. He then fired three or four more rounds at the suspect. The suspect slowed slightly, continued to point his gun at him, then ran under the Imperial Highway overpass and out of his view. He then heard two or three additional gun shots which he believed came from under Imperial Highway on Wilmington Ave. He did not know if the suspect was firing or if Deputy North was firing.

Deputy MacDonald ran to the radio car and backed it down the ramp they had driven up. As he did this, he heard on the radio that the suspect was "down." When he arrived at the suspect's location, he exited his vehicle and ran to the suspect, at which time he saw a handgun laying next to the suspect. Paramedics arrived a short time later and transported the suspect to the hospital.

IAB Note: At the scene of the shooting $22,200.00 was recovered from the suspect's clothing and at the hospital an additional $24,195.00 was recovered from the suspect's pants. This money was later determined to be the result of illegal narcotics trafficking.

Los Angeles County Sheriff's Department
Officer Involved Shooting

Report Date:	Bureau/Station/Facility:	Admin. Invest.?	Hit?
SEPTEMBAER 1, 2002	CENTURY	☒	☒

Incident Information

URN: 002-17526-2136-013	Date: SEPTEMBER 1, 2002 Time: 1750 HRS
City or Station: CENTURY	Nature of Incident: DEPUTY INVOLVED SHOOTING- SUSPECT DECEASED-Dep's att. to stop susp. who was driving erratically in a pkg lot. Short veh. pursuit ensued, followed by a short foot pursuit. Susp. pointed a gun at Dep Mcdonald who shot the susp.
Location: IMPERIAL HWY. & WILMINGTON AVE.	

Location Type (*circle one or more*): Backyard, Beach, Business, Freeway, Industrial, Park, Parking Lot, Residence, Rural, School, **Street**, Other: ______

Lighting (*circle only one*): Darkness, **Daylight**, Other, Street Lights

Weather (*circle only one*): **Clear**, Cloudy, Fog, Rain

Distance:

Incident Type (*circle one or more*): Accidental, **Armed Person**, **Fleeing Suspect**, Foot Pursuit, Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, Struggle Involved, Traffic Stop, Unarmed Person, Unintentional, **Vehicle Pursuit**, Warrant Service, Other: ______

Initiated by (*circle only one*): Arrest Warrant, Call, Observation, One Person Unit, Other, Search Warrant, **Two Person Unit**

Prior Activity (*circle only one*): Detective, Inmate Transport, Other, **Routine Patrol**

Aero Unit? ☐ Canine Unit? ☐

Total # of Shots Fired by Deputy	Total # of Shots Fired by Suspect
7	2

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
[redacted]	NORTH	JAMES	J.	EM **PM** Day	**Regular** Overtime Off Duty
[redacted]	HILGENDORF	KEVIN	K.	EM **PM** Day	**Regular** Overtime Off Duty
[redacted]	[redacted]	[redacted]	[redacted]	EM **PM** Day	**Regular** Overtime Off Duty

Non-Employee Witnesses

Last Name		First Name		M.I.
[redacted]		[redacted]		[redacted]
Street Address	City	Zip Code	Work Ph	Home Ph
Last Name [redacted]		First Name [redacted]		M.I. [redacted]
Street Address	City	Zip Code	Work Ph	Home Ph
Last Name [redacted]		First Name [redacted]		M.I. [redacted]
Street Address	City	Zip Code	Work Ph [redacted]	Home Ph

Supervisors

Employee #	Last Name	First Name	M.I	(*circle one or more*)
[redacted]	WEGENER	KENT	A.	**On Duty**, Present during shooting, Witness to shooting, Involved in shooting
[redacted]	ARRIAGA	MICHAEL	S.	**On Duty**, Present during shooting, Witness to shooting, Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
[redacted]	LUCAS	RICK	P.

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	OGURI	KANZO	

PSTD Use Only

SH # 2070675

SH-R-438A rev. 3/97

See Reverse

Officer Involved Shooting

URN: 002-17526-2136-013

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
September 1, 2002	2020 HRS		

Employee #	Last Name	First Name	M.I
[redacted]	JOHNSON	GREGORY	
[redacted]	SMITH	RICHARD	G.
[redacted]	CLEARY	JOHNSON	T.

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
E#1	S#1	FH	BR	9	Y	Y	DH	CH
S#1	E#1	FH	ZZ	45			NN	



Officer Involved Shooting
Involved Employee Information

URN: 002-17526-2136-013

Involved Employee

E 1

Employee # [redacted]	Last Name MACDONALD	First Name JOHN	M.I. P.
Sex: M Race: W	Rank DEPUTY	Unit Assignment:	Work Assignment (Unit #, Module, etc.): 213E
ShiftTime (*circle only one*): EM (PM) Day	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, (Uniform w/ Vest)	Other Factors:
Age: [redacted] Height:	Weight:		
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted]
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Age: Height:	Weight:		
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Age: Height:	Weight:		
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

Officer Involved Shooting Suspect Information

URN: 002-17526-2136-013

Suspect Information

S 1			
Last Name: BRITO		First Name: JOSE	M.I.: Y.
AKA Last Name:		First Name:	M.I.:
Sex: M Race: H	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #: [redacted]
Age: 32 D.O.B. 09-18-69	Height: 5'07" Weight: 200	FBI #:	CII #: [redacted]
Booking #:	Primary Charge:	Secondary Charge:	
Coroner Case? ☒	Coroner Case #: 2002-06587	Intoxication/Drug Usage? ☒	Substance Used: METHAMPHETAMINE/COCAINE
Armed? ☒	Apprehended? ☐	Mental Illness? ☐	Criminal History? [redacted]
Vehicle Make: CADILLAC		Model: ESCALADE	Year: 2002

S ___			
Last Name:		First Name:	M.I.:
AKA Last Name:		First Name:	M.I.:
Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make:		Model:	Year:

S ___			
Last Name:		First Name:	M.I.:
AKA Last Name:		First Name:	M.I.:
Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make:		Model:	Year:

S ___			
Last Name:		First Name:	M.I.:
AKA Last Name:		First Name:	M.I.:
Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make:		Model:	Year:

See Other Side



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
CURT LIVESAY • Chief Deputy District Attorney
PETER BOZANICH • Assistant District Attorney

DAVID H. GUTHMAN • Director

April 3, 2003

Captain Frank Merriman
Los Angeles County Sheriff's Department
Homicide Bureau
5747 Rickenbacker Road
Commerce, California 90040

Dear Captain Merriman

RE: J.S.I.D. File No. 02-0780
L.A.S.D. File No. 002-17526-2136-013

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 1, 2002 fatal shooting of Jose Yanez Brito by Los County Sheriff's Deputy John MacDonald. We find that Deputy MacDonald acted in lawful self-defense.

The following analysis is based upon reports prepared by the Los Angeles County Sheriff's Department submitted to this office by Detectives Richard Tomlin and Paul Fournier on November 26, 2002, as well as an examination of photographs relating to the matter. Additionally, the District Attorney Command Center was notified of the shooting at approximately 6:15 P.M. on September 1, 2002. The District Attorney Response Team, comprised of Deputy District Attorney Edward Miller and District Attorney Senior Investigator Brian Bell, responded to the scene. We were given a briefing of the circumstances surrounding the shooting, and a "walk-through" of the scene.

Factual Analysis

On Sunday, September 1, 2002, at 5:35 P.M., uniformed Deputies John MacDonald and James North, were in a marked black and white patrol car traveling south on Wilmington Avenue at 119th Street, in the city of Lynwood. Their attention was drawn to the sound of screeching tires. They saw Jose Yanez Brito driving a Cadillac Escalade through a shopping center parking lot at a high rate of speed, nearly striking pedestrians. North, who was driving, made a u-turn and drove into the shopping center. North activated the patrol car's red lights to make a traffic stop in order to check Brito's sobriety. Brito

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slowed down as if to stop, then accelerated out of the parking lot through a stop sign northbound on Wilmington Avenue. Brito drove through a red light and began swerving in and out of traffic. Deputy MacDonald advised by radio that they were initiating a pursuit of a reckless driver.

Brito made a left turn through orange traffic cones on to a closed off-ramp for westbound Imperial Highway. This ramp was closed because it was under construction. Imperial Highway at this location forms an overpass which crosses over Wilmington Avenue at an elevation of approximately thirty feet above ground level. Imperial Highway runs in an east-west direction, while Wilmington Avenue runs in a north-south direction. Brito drove to the end of the off-ramp and was forced to stop at a concrete barrier set up to prevent westbound Imperial Highway traffic from exiting the freeway. Deputy North stopped several feet behind him. Brito quickly got out of the Escalade, holding a pistol in his right hand. He jumped over a three-foot cement barrier and ran across Imperial Highway. The deputies pursued Brito on foot. Brito ran to the adjoining on-ramp for eastbound traffic, which was also closed due to construction. He jumped over the side of the ramp, approximately twenty-five feet, back on to Wilmington Avenue. He then ran north on Wilmington Avenue, still holding the gun in his hand, back towards the direction of the Imperial Highway overpass.

As North continued to follow Brito, MacDonald stopped on the south side of the overpass in order to maintain visual and radio contact with North and to coordinate responding units. Looking down on the street below, MacDonald saw Brito run up to a white car traveling north on Wilmington Avenue. Brito banged on this car's window and pointed his gun at its occupants in an apparent attempt to car-jack their car. The car, however, sped away. A brown car, with a woman and a girl inside, then drove by Brito. Brito began banging on this car's windows and tried to open the passenger door, all the while pointing his gun at the occupants. This car also sped away.

When North reached the spot where Brito had jumped off the ramp, he also saw him banging on the door of the white car, apparently attempting to gain entry. Being unsuccessful, Brito continued to run northbound. North yelled commands at Brito to get down on the ground. Brito looked back at North, but continued running north on Wilmington Avenue. As North ran further down the ramp and jumped down to the ground below, Brito unsuccessfully attempted to enter the brown car.

Brito continued running north on Wilmington Avenue towards the overpass where MacDonald was standing. MacDonald yelled, "Drop your gun, get your hands up!" Brito ran to within 30 to 40 feet of Deputy MacDonald and raised his gun at him. In fear for his life, MacDonald fired what he believed to be six to eight rounds from his nine-millimeter handgun. Brito, approximately five yards away at the time of the shooting, slowed down slightly, but continued to point his gun at MacDonald. Brito then ran underneath the overpass and out of MacDonald's view. MacDonald then heard two to three additional shots.

When Deputy North hit the ground after jumping from the ramp, he saw Brito, about 80

yards away, running with his gun at his side. As Brito neared the overpass, North saw Brito look up towards Deputy MacDonald and raise his gun in front of him. Deputy North heard commands being yelled at Brito, then heard four to seven gunshots. North immediately turned and ducked for cover. When North looked up, he saw that Brito was now lying motionless on the ground beneath the overpass.

Los Angeles Sheriff's Deputies Kevin Hilgendorf and [redacted] partners in the same patrol car, responded to the call and parked in a construction area on Willowbrook Avenue, just north of Imperial Highway. Deputy Hilgendorf briefly saw Brito running, before his view was obstructed by concrete pillars and a chain link fence. Hilgendorf then heard one gunshot coming from where he last saw Brito. Hilgendorf believed that Brito had committed suicide because he did not see any deputies near him when he heard the gunshot.

Deputy [redacted] also saw Brito running in the area of the overpass and heard what he characterized as a cluster of gunfire. [redacted] saw Brito stagger, then lost sight of him when he (Brito) went behind a concrete pillar under the overpass. [redacted] found Brito lying face down on the street under the overpass holding his gun in one of his hands beneath him. Brito's gun, a .45 caliber semi-automatic pistol, had its hammer back in the cocked position with the safety off. It was loaded with one round in the chamber and four rounds in the magazine.

Paramedics transported Brito to K...g/Drew Medical Center where he was pronounced dead at 6:16 P.M. by Dr. Lacey. Dr. Lacey found $24,195 in Brito's pants pockets. As Dr. Lacey counted the money, she discovered a bindle made out of a $100 bill which contained a powder crystalline substance resembling methamphetamine. Investigators subsequently found $22,200 in Brito's coat pockets.

The front tires of Brito's vehicle were wedged between cement barriers located on both sides of the off-ramp where it came to a stop. The vehicle was left in drive with the engine running.

Investigators interviewed numerous civilian witnesses on the date of the incident. [redacted] stated that he was standing on his front porch when he observed Brito drive his vehicle on the closed ramp. He saw Brito stop and run from his vehicle, then jump off the on-ramp down to Wilmington Ave. He subsequently saw Brito attempt to stop a passing car traveling on Wilmington Avenue and open the front passenger's door. Brito was unsuccessful at opening the door and ran northbound on Wilmington Ave. [redacted] saw Brito looking up at the overpass and heard what he believed to be 3 to 4 shots, then saw Brito fall to the ground. [redacted] could not see whether Brito had a gun due to the distance from his front porch to the scene of the incident.

One expended .45 caliber cartridge casing was recovered a few feet from where Brito was lying. Seven expended nine-millimeter cartridge casings were recovered from the area where Deputy MacDonald was standing when he fired his weapon.

MacDonald fired a Beretta, Model 92F 9mm pistol. MacDonald stated that he keeps fifteen bullets in the magazine and one bullet in the chamber. After the shooting, investigators examined MacDonald's pistol and noted that it contained eight rounds in the magazine and one in the chamber.

On September 5, 2002, Irwin L. Golden, M.D., Deputy Medical Examiner, performed an autopsy on the body of Jose Yanez Brito. He ascribed the immediate cause of death to a gunshot wound to the head. The trajectory path for this wound was right to left, upward and slightly front to back. Dr. Golden found that this wound was rapidly fatal and had the characteristics of a self-inflicted "contact wound." Dr. Golden consequently ruled the manner of death to be suicide. It was the opinion of Dale Higashi, Firearms Examiner for the Sheriff's Department, that the projectile recovered from this wound was fired from Brito's gun.

Brito also sustained a gunshot wound to the chest and abdomen. Dr. Golden described this wound as contributing but not related to the immediate cause of death and considered it to be a life-threatening injury. The trajectory path for this wound was front to back and downward. It was Mr. Higashi's opinion that the projectile recovered from this wound was fired by Deputy MacDonald's gun.

Aside from his possession of a substance resembling methamphetamine wrapped in a $100 bill, there is substantial evidence that the money recovered from Brito's clothing was the result of narcotics trafficking. [redacted] Additionally, a narcotics scent dog alerted to the money when it was hidden in a cabinet drawer by investigators, thereby indicating the presence of narcotics on the currency. Moreover, Brito had a passport in his possession with his picture, but in the name of "Joel Casillas Coronado." Finally, a toxicology report revealed the presence of methamphetamine in Brito's blood and cocaine in his urine

CONCLUSION

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. *People v. Williams (1977) 75 Cal.App. 3d 731.*

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. *California Jury Instructions - Criminal 5.30, 5.32.*

When the peril is swift and imminent and the necessity for action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. *People v. Collins (1961) 189 Cal. App. 2d 575.*

In this case, Deputy MacDonald had no choice other than to use deadly force against Jose Yanez Brito. Initially, MacDonald and Deputy North tried simply to detain Brito to investigate his reckless driving. Brito instead chose to lead the deputies on a dangerous chase before attempting to enter two cars at gunpoint. Brito subsequently ignored commands to drop his gun and raised it towards Deputy MacDonald. He even continued to point his gun at MacDonald after MacDonald wounded him. Brito was apparently so desperate to escape incarceration, that he took his own life.

The conclusion of this office is that Deputy MacDonald acted reasonably and lawfully in self-defense when he used deadly force against Jose Yanez Brito. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By Edward A. Miller

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c. Deputy John MacDonald #[redacted]